



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/659,746

09/11/2003

Esther Dabney

1266-27

3466

23117

7590

06/13/2008

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

RANKINS, WILLIAM E

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

06/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/659,746	Applicant(s) DABNEY ET AL.	
	Examiner WILLIAM E. RANKINS	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-18, 29-32 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 19-28, 33, 34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/11/2003, 02/16/2005 and 05/02/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 12/11/2003, 02/16/2005 and 05/02/2006 was filed in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Status of Claims

Claims 1-38 are pending in this application. Claims 1-18, 29-32 and 35 are canceled. Claims 19-28, 33, 34 and 36-38 were elected subject to a restriction requirement.

The examiner notes that the initial response to the office action did not indicate if the election was with or without traverse. In a telephone conversation on 5/26/2008 with Ellen Seaman, on behalf of attorney Robert Faris, an election was made without traverse.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3696

A person shall be entitled to a patent unless –(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 19, 20 and 38 are rejected under 35 U.S.C. 102(a) as being anticipated by Yahoo Auctions (12/30/2002)

As per claim 19;

Yahoo Auctions discloses:

The method of processing online auction-style listings comprising:

setting a predetermined listing and time (Pgs. 1-4);

receiving bids before said listing and time (Pg. 4);

automatically extending said predetermined end time if a bid is received near the end time (Pg. 3).

As per claim 20;

Yahoo Auctions discloses:

The method of claim 19 wherein said automatically extending further extends said end time upon receiving additional bids (Pg. 3).

As per claim 38;

Yahoo Auctions discloses:

A method of providing online auction-style listing services comprising:

storing information relating to items for sale auction-style

scheduling auction-style listing and times associated with said listed items (Pg. 2); and
allowing authorized sellers to end auction-style listings prior to said end times (Pg. 4).

2. Claims 21-23, 33 and 34 are rejected under 35 U.S.C. 102(a) as being anticipated by Auto Trader (12/19/2002).

As per claim 21;

Auto trader discloses:

An online auction-style listing service comprising:

maintaining a database of auction-style listings, said database including geographical location of listed items (Pg. 2);

requesting a potential bidder to input the bidder's geographical location; and
searching said database for and displaying primarily items that are within proximity to the bidder's geographical location (Pg. 2).

As per claim 22;

Auto trader discloses:

The method as in claim 21 wherein said potential bidder specifies location with zip code, and said method further includes calculating a geographical proximity based at least in part on the specified zip code (pg. 2).

As per claim 23;

Auto trader discloses:

A method of providing online auction-style listings comprising: maintaining a database of items available for auction-style listing;

allowing sellers to specify whether items are to be listed in said database as conditional or binding transactions (Pgs. 1 and 2, reserve price); and:

displaying the conditional or binding characteristic of an item listing with other information relating to the item (Pgs. 1 and 2, reserve price).

As per claim 33;

Auto trader discloses:

A method of providing online auction-style listings comprising:

accepting information from a seller for listing an item for sale auction-style;

allowing the seller to specify at least one of auction listing start time/date and listing and time/date(Pg. 2); and

further allowing said seller to program listing duration (Pg. 2).

As per claim 34;

Auto Trader discloses:

A method as in claim 33 wherein said further allowing allows said seller to specify listing duration within a range (Pg. 2).

3. Claim 36 is rejected under 35 U.S.C. 102(a) as being anticipated by Santosuosso (2003/0110047).

As per claim 36;

Santosuosso discloses:

A method of providing auction-style listing services comprising:
storing the information concerning items listed for sale auction-style (Para. 0032);
allowing at least one seller to selectively block bids from particular parties; and
accepting bids for items while refusing bids from said particular parties (Para's.
0001-0013).

4. Claim 37 is rejected under 35 U.S.C. 102(a) as being anticipated by Dalal et al. (2002/0073158).

As per claim 37;

Dalal discloses:

37. A method of providing auction-style listing services comprising:
presenting auction-style listings on line (Para. 0018);
receiving bids associated with said auction-style listing; and
allowing a seller associated with a predetermined listing to cancel a received bid
(Para. 0018)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bogosain et al. (2004/0236690).

As per claim 24;

Bogosian does not specifically disclose:

A method of providing online listing services comprising:

maintaining at least one database of items listed for sale;

displaying at least some of said items in a classified advertising listing format;

displaying at least others of said items in an auction-style listing format;

allowing sellers to flexibly change selected item listings between said classified advertising and said auction-style listing formats.

However, Bogosian discloses:

An auction site where a seller can select between a fixed price and an auction when posting an item for sale.

The examiner asserts that it would have been obvious for one of ordinary skill in the art at the time of this invention to store items for sale in a database.

Therefore, the examiner asserts that all of the limitations of claim 24 are met by the reference listed.

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auto Trader (12/19/2002) in view of Vaidyanathan et al. (2004/0059596).

As per claim 28;

Auto Trader discloses:

A method of providing online auction-style listings comprising:

storing information concerning items for sale in a database;

selectively presenting information concerning said items on web pages

in auction-style listing formats that solicit bids;

allowing bidders to rate sellers;

Auto Trader does not specifically disclose;

giving sellers a predetermined time period for contacting and satisfying bidders before publicly posting said ratings.

However, Auto trader discloses:

Allowing up to one week to work with a buyer to obtain a positive rating.

Vaidyanathan discloses:

A dispute resolution system that is employed without allowing the public to see any negative feedback (Para. 0006).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Auto trader and Vaidyanathan. One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to protect sellers from the effects of unfair feedback.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (2002/0065763) in view of Official Notice.

As per claim 25;

Taylor does not specifically disclose:

A method of providing online transaction services comprising:

storing auction-style listings in a database;

allowing potential bidders to search through and selectively display at least some of said database contents;

accepting bids from users and providing at least some information concerning said bids to corresponding sellers;

allowing sellers whose items have been bid upon to issue offers to sell to corresponding bidders;

However, Taylor discloses:

A bidder pre-approval process where only seller authorized bidders can participate in the auction based on the bidders bidding history and profile information (Para. 0046).

Taylor does not disclose:

temporarily suspending auction-style listings for predetermined durations when corresponding offers to sell are outstanding.

However, Official Notice is taken that it is old and well known in the art to suspend auctions if an offer is accepted until the sale is completed. The examiner references the 'buy it now' feature of EBay and Yahoo where a set price can be stated for immediate purchase. In the event that the buyer does not complete the purchase the auction will resume.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Taylor and Official Notice.

One of ordinary skill in the art at the time of this invention would have been motivated to do so in order to set a price which is comparable to other sale.

As per claim 26:

Taylor does not disclose:

The method of claim 25 wherein said service allows sellers to issue offers to sell to high bidders before listing expiration, and allows sellers to issue offers to sell to any bidders after a listing expiration.

Art Unit: 3696

However, Official Notice is taken that it is old and well known in the art to offer sellers the ability to re-list an item for free if it does not sell during the allotted auction time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of this invention to combine the methods of Taylor and Official Notice in order to promote online auction sales.

Claim 27 is rejected under the same rationale used to reject claim 26.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Rankins whose telephone number is 571-270-3465. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, off alt Fridays beg 6/15/07.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E Rankins/
Examiner, Art Unit 3696
05/26/2008

/Daniel S Felten/

Application/Control Number: 10/659,746
Art Unit: 3696

Page 13

Primary Examiner, Art Unit 3696